

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS

No. 08-0751V

Filed: 22 December 2009

* * * * *	*
PATRICIA C. DANDURAND,	*
	*
Petitioner,	*
	*
v.	*
	*
SECRETARY OF HEALTH	*
AND HUMAN SERVICES,	*
	*
Respondent.	*
* * * * *	*

Eileen Coffey Moore, Esq., Laguna Niguel, California, for Petitioner;
Traci Patton, Esq., U.S. Department of Justice, Washington, District of Columbia, for Respondent.

UNPUBLISHED DECISION UPON PROFFER AND ACCEPTANCE¹

On 22 October 2008, Petitioner brought a petition under the National Childhood Vaccine Injury Act of 1986 (“Vaccine Act” or “Act”).² On 18 December 2009, the Court ruled the Petition entitled to compensation. On 18 December 2009, Respondent sent for filing a proffer to compensate Petitioner for all injuries compensable by the Vaccine Program and Petitioner sent for filing an Acceptance of the Proffer, accepting the amounts contemplated in the Proffer.

¹ Petitioner is reminded that, pursuant to 42 U.S.C. § 300aa-12(d)(4) and Vaccine Rule 18(b), a petitioner has 14 days from the date of this ruling within which to request redaction “of any information furnished by that party (1) that is trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, “the entire decision” may be made available to the public per the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002).

² The statutory provisions governing the Vaccine Act are found in 42 U.S.C. §§300aa-10 *et seq.* (West 1991 & Supp. 1997). Hereinafter, reference will be to the relevant subsection of 42 U.S.C.A. §300aa.

The Proffer contemplates lost future earnings in the amount of \$486,035.00, actual and projected pain and suffering damages in the amount of \$248,774.00, and past unreimbursable expenses of \$169,249.00. Respondent's proffer of future life care items is summarized in **Appendix A: Summary of Life Care Items for Patricia C. Dandurand**, attached hereto.

Respondent offered as the appropriate growth rate for life care items of compensation four percent (4%) for non-medical items and six percent (6%) for medical items, compounded annually from the date of judgment.

Petitioner accepts the proffered amounts as the total amount attributable to the vaccine-related injury found by the Court to be entitled to compensation.

Wherefore, by the proffer and acceptance of the parties, and for good cause shown, the Court awards the following compensation for the vaccine-related injury(ies) sustained by Patricia C. Dandurand, Petitioner:

- A. A **lump sum** payment of **\$456,094.00**, representing life care expenses for Year 1 (\$207,320.00) and compensation for past and projected pain and suffering (\$248,774.00), shall be awarded in the form of a check payable to Petitioner;
- B. A **lump sum** payment of **\$169,249.00**, representing compensation for past unreimbursed expenses, shall be awarded in the form of a check payable to Petitioner;
- C. A **lump sum** payment of **\$486,035.00**, representing compensation for past and future lost earnings, shall be awarded in the form of a check payable to Petitioner; and
- D. An **amount sufficient** to purchase an annuity contract, subject to the conditions described in paragraph II. D of Respondent's Proffer (incorporated herein by reference), paid to the life insurance company from which the annuity will be purchased, for items contained in the life care plan set forth in **Appendix A: Summary of Life Care Items for Patricia C. Dandurand**, filed along with Respondent's Proffer, and attached and incorporated hereunto.

The Court accepts these terms as just and reasonable. In the absence of a motion for review filed pursuant to Vaccine Rules 23 and 24, the Clerk is directed to enter judgment in accord with this Decision.³

³ Under Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing the right to seek review of this decision by a Court of Federal Claims judge. Then, under Vaccine Rule 12(a), Petitioner may expedite payment by filing an election to accept the judgment.

The parties are encouraged at this time to discuss attorney fees and costs incurred by Petitioner, so that Petitioner may expeditiously file an application for compensation of attorney fees and costs in a timely fashion, not later than 180 days after the entry of judgment on this Decision. Any further issues or queries should be directed to my law clerk, Isaiah Kalinowski, Esq., at 202-357-6351.

IT IS SO ORDERED.

Richard B. Abell
Special Master